

Geoff Baker

From: Geoff Baker [gabaker@dowellbaker.com]
Sent: Wednesday, May 28, 2008 1:38 PM
To: 'Edward Manzo'; 'Bob Karton'
Cc: 'Vernon Francissen'; 'Nancy Sasamoto'; 'Steven Katz'; 'Joel Bock'; 'lalex'; 'jsmalley@cookalex.com'; 'George Kobayashi'
Subject: RE: Miyano case

Ed,

We are sorry to see you, again, choosing forced intervention by the Court as opposed to agreement of the parties. Your offer and subsequent withdrawal of the June 3 date exemplifies your clients' lack of cooperation to date in this litigation. Your refusal to cooperate forces us to go to the Court to seek an additional 3 days. During that three days, there cannot be any prejudice to your clients. The only prejudice that you might be able to point to would be to the Court.

However, Judge Kendall's dates all hinged off of a need for her to digest the briefing well in advance of the hearing. Our proposed dates allow for ample time for her to digest the materials well in advance of the July 18 hearing. We will notify Mr. Wood of our views and move the Court for an extension. That hearing, due to the Court's notice requirements, cannot be heard before Monday, June 2. We will not file our response before our motion is heard.

We, again, respectfully request that you reconsider your refusal to allow us the additional three days that we requested. As you know, we are requesting that time because our client is out of the country (returning very early next week) and one of our primary attorneys is out until Monday, as well. Neither Bob nor I realized this until after we left the courthouse yesterday. Had we realized this and mentioned it to Judge Kendall, we are confident that she would have allowed us until June 6 to respond. Judge Kendall has rightly been focused on making sure that the Court has ample time to consider the briefing before the hearing.

Geoff

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From: Edward Manzo [mailto:emanzo@cookalex.com]
Sent: Wednesday, May 28, 2008 1:00 PM
To: 'Bob Karton'
Cc: 'Geoff Baker'; Vernon Francissen; 'Nancy Sasamoto'; 'Steven Katz'; 'Joel Bock'; 'lalex'; jsmalley@cookalex.com; 'George Kobayashi'
Subject: Miyano case
Importance: High

Dear Bob,

5/28/2008

This is in response to your request to extend, by another full week, the due date for defendants to file their brief in opposition to MMU's motion for a preliminary injunction. Geoff Baker did not accept the June 2 or 3 date, and requested an extension by a full week to June 6.

We cannot agree. The time has been more than ample for defendants to articulate why they ought not be enjoined.

Most importantly, my clients are not agreeable to this extension. To the extent that June 2 or 3 was tentatively discussed as a compromise, that offer was rejected and is withdrawn.

We therefore expect defendants' brief to be filed this Friday, May 30 as Judge Kendall ordered from the bench in yesterday's hearing on defendants' motion.

Sincerely,

Edward D. Manzo
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Cook, Alex, McFarron, Manzo, Cummings & Mehler, Ltd.

5/28/2008